IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2007

Coram

The Honourable Mr.Justice M.CHOCKALINGAM

CRP.NPD.No.1606 of 2006
and
MP.No.1 of 2006

S.Gunabooshnam ...Petitioner/Plaintiff
Respondent

-vs-

1. Helan Paul
2. B.Agustus
3. B.Anbuprisilla
4. B.Anbusaral ...Respondents/Defendants
Petitioner

Civil Revision Petition against the order passed by the learned District Munsif, Attur, in E.A.No. 156 of 2005 in E.P.No.79 of 2005 in O.S.No. 230 of 2005 dated 31.7.2006.

For Petitioner : Mr.C.Jagadish

For respondent : Mr.S.Janakiraman

ORDER

Challenge is made to the order of the learned District Munsif, Attur, dated 31.7.2006 made in E.A.No. 156 of 2005 in E.P.No.79 of 2005 in O.S.No.230 of 2005.

2. The respondents/ defendants were set ex parte in a suit filed by the revision petitioner/ plaintiff. For executing the decree in the suit, Execution Petition was filed by the plaintiff. In the Execution Petition also the respondents/ defendants were set ex parte. At that juncture, an application was filed in E.A.No.156 of 2005 in order to set aside the ex parte order passed in that E.P. The application was allowed by the lower court. Aggrieved plaintiff/ decree holder as revision petitioner is before this Court challenging the order of the lower court.

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3. According to the learned counsel for the revision petitioner, the lower court should not have set aside the order since there was sufficient time given to the respondents to defend the case and ex parte decree should not be set aside. When the decree was about to be executed, the respondents / defendants set ex parte. There was a sale deed executed between the plaintiff and husband and father of the defendants. In such circumstances, the order of the lower court has got to be sustained.

4. It is pertinent to point out that this Court by order dated 20.6.2007 dismissed the connected Civil Revision Petition in CRP No.1605 of 2005, wherein the application to condone the delay of 165 days in making the application to set aside the ex parte decree was under challenge. Under circumstances, the lower court is directed to take up the application filed by the defendants to set aside the ex parte decree and pass orders on merits.

5. Under such circumstance, the court is of the considered opinion that the entire order passed in the EP have got to be set aside. The Civil Revision Petition is dismissed. No costs. Consequently, connected MP is closed.

bg

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

District Munsif, Attur.

+1 cc to Mr.S.Janakiraman, Advocate Sr.No.36701.

BV(CO)
dcp/5.7.07

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